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ENDORSED
FILED
Superior Court of California
County of San Francisco
DEC 20 2011
CLERK OF THE COURT
BY: ROSSALY DELAVEGA
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

CPF-11-511772

PEOPLE OF THE STATE OF CALIFORNIA EX REL. KAMALA D. HARRIS, ATTORNEY GENERAL OF THE STATE OF CALIFORNIA,

Petitioner,

v.

FEDERAL HOME LOAN MORTGAGE CORPORATION,

Respondent.

Case No.

PETITION TO ENFORCE INVESTIGATIVE INTERROGATORIES

[Gov. Code §§ 11180 et seq.; 12659]

Petitioners the People of the State of California, ex rel. Kamala D. Harris, Attorney General of the State of California, allege as follows:

INTRODUCTION

1. This is an action to require answers to a set of fifty-one investigative interrogatories (the INVESTIGATIVE INTERROGATORIES) issued by the Attorney General of the State of California to the Federal Home Loan Mortgage Corporation (FREDDIE MAC) as part of her ongoing investigation of the mortgage and foreclosure crisis facing California.

2. The Attorney General is the chief law officer of the State of California. She is responsible for enforcing the state's criminal, consumer protection, and securities laws, and she exercises supervision over the state's sheriffs and district attorneys. She also regularly makes legislative and policy recommendations to the California Legislature, and she has the authority to promulgate regulations in a variety of areas. In order to carry out these duties effectively, California law gives the Attorney General broad investigative powers—including the right to issue subpoenas and investigative interrogatories.

3. FREDDIE MAC is a private corporation chartered by Congress. Like other corporations, it has shareholders, a board of directors, and a CEO. Its stock is publicly traded.[1] FREDDIE MAC and its counterpart, the Federal National Mortgage Association (FANNIE MAE), collectively own over 60% of the mortgages in California.

4. The mortgage and foreclosure crisis has had a devastating impact on the people of California. From January, 2007, through June, 2011, 768,330 residential mortgages have been foreclosed upon in California. Foreclosures not only affect the families who lose their homes, but also the safety, health and welfare of the entire community.

[1] FREDDIE MAC's common stock, ticker symbol FMCC, is currently traded on the OTC Bulletin Board. FREDDIE MAC's stock was de-listed from the New York Stock Exchange and the Chicago Stock Exchange on July 8, 2010. FREDDIE MAC had 649,722,580 shares of common stock outstanding as of September 30, 2011.

5. Foreclosed homes create numerous problems in California. For example, abandoned properties often become venues for a wide range of criminal activity, including prostitution and drug trafficking.

6. Foreclosed homes also create health and safety issues such as fires caused by overgrown yards or neglected gas and electrical connections (often damaged by metal thieves). Such fires are particularly hazardous in high-density urban areas where fires can spread quickly to nearby buildings, and in communities that are vulnerable to wildfires. Vacant properties also create opportunities for infestation by rats and vermin and can become dumping grounds for construction debris and garbage.

7. Studies by FANNIE MAE and others demonstrate that the very presence of vacant homes in a neighborhood significantly affects the value of the remaining properties, reducing the value of other homes on the block by thousands of dollars each.

8. Improper foreclosure practices can violate the rights of Californians, including those who serve in the armed forces, or who are members of racial, ethnic or religious minorities.

9. In addition to owning thousands of foreclosed homes in California, FREDDIE MAC issued numerous securities marketed and underwritten by a wide range of parties—and purchased by Californians. Many of those securities are now virtually worthless, and there have been serious accusations of fraud in connection with them. Most recently, the Securities and Exchange Commission (SEC) charged former FREDDIE MAC senior executives with securities fraud and entered into a non-prosecution agreement with FREDDIE MAC pursuant to which FREDDIE MAC does not contest a Statement of Facts about its deceptive and misleading public statements.

10. In light of its central role in the mortgage and foreclosure crisis, FREDDIE MAC has extensive information that is critical to the Attorney General's investigation. The Attorney General therefore issued the INVESTIGATIVE INTERROGATORIES to FREDDIE MAC. The INVESTIGATIVE INTERROGATORIES ask questions that are critical to protecting the health, safety and welfare of California residents and enforcing California law of general applicability. Specifically, the Attorney General seeks information concerning:

- Criminal activity such as drug dealing and prostitution at foreclosed homes owned by FREDDIE MAC;
- Compliance of FREDDIE MAC's loan servicers and property managers with civil rights laws and laws protecting members of our armed forces against unlawful eviction or foreclosure;
- Compliance with California securities laws;
- Compliance with California tax laws; and
- The presence of toxic materials, explosives, weapons or ammunition, overgrown brush or other fire hazards, mosquito-filled pools, or other threats to health and safety at FREDDIE MAC's foreclosed properties in California.

11. Despite the fact that the Attorney General has authority to issue the INVESTIGATIVE INTERROGATORIES, FREDDIE MAC has failed and refused to provide any of the information requested by the Attorney General. The People therefore request an order compelling FREDDIE MAC to answer the INVESTIGATIVE INTERROGATORIES.

THE PARTIES

12. Petitioner Kamala D. Harris is the Attorney General of the State of California, and was so at all relevant times. She brings this action solely in her official capacity on behalf of the People of the State of California.

13. Respondent FREDDIE MAC is an investor-owned corporation that does business in California. It has shareholders, directors and a CEO. Its stock is publicly traded. FREDDIE MAC's charter expressly provides that it can be sued in state court. On September 6, 2008, FREDDIE MAC's regulator, the Federal Housing Finance Authority, placed FREDDIE MAC into a temporary conservatorship. However, FREDDIE MAC remains a private corporation and continues as an ongoing business as it did before the conservatorship.

THE ATTORNEY GENERAL'S INVESTIGATIVE AUTHORITY

14. The Attorney General is the State's chief law enforcement officer. She has broad authority under the California Constitution, statute, and common law to bring actions to enforce the laws of the state and to protect public rights and interests. She has direct authority to investigate and prosecute crimes, and she supervises California's district attorneys, sheriffs, and other state and local law enforcement agencies.

15. The Attorney General is empowered to bring actions to enforce a panoply of statutes relating to civil rights, environmental protection, fraud, unfair business practices, and a range of other subjects. She also has independent authority to investigate and prosecute misconduct in the offer and sale of securities. Additionally, she has the authority to promulgate regulations in a number of subject matter areas, including regulations concerning the electronic recordation of documents related to land ownership.

16. To aid her in enforcing these statutes, the Attorney General possesses broad powers under California Government Code sections 11180 *et seq.* and 12659 to, among other things, issue subpoenas, promulgate interrogatories, and inspect books and records. The Attorney General may use these powers for various reasons, including assisting her in considering possible prosecutorial actions, proposing legislation, and formulating enforcement policies with other agencies.

17. The Attorney General's investigative powers are not dependent on the initiation of a civil law suit or an administrative proceeding. The Attorney General has broad discretion and may investigate based on suspicion that the law is being violated or to determine that it is not. If a party disobeys a subpoena or set of investigatory interrogatories, the Attorney General may petition the Superior Court for enforcement.

THE ATTORNEY GENERAL'S INVESTIGATION OF THE MORTGAGE AND FORECLOSURE CRISIS

18. On May 23, 2011, the Attorney General announced the creation of a Mortgage Fraud Strike Force within the Department of Justice to investigate all aspects of the mortgage and

foreclosure crisis facing California, from the origination of mortgage loans to the management of foreclosed properties.

19. The Strike Force is tasked with determining whether laws have been violated, evaluating whether civil or criminal prosecutions are warranted, and making recommendations concerning any necessary legislation and regulation. The Strike Force also helps formulate enforcement policies within the Department of Justice and in coordination with other federal, state and local agencies to respond to the current crisis.

20. The Attorney General has propounded investigative subpoenas and interrogatories to a number of witnesses, including FREDDIE MAC, that have information or documents relevant to the investigation.

THE INVESTIGATIVE INTERROGATORIES

21. The INVESTIGATIVE INTERROGATORIES propounded to FREDDIE MAC seek information on core police power issues, including the protection of the public safety, health, welfare and morals. The information sought by the INVESTIGATIVE INTERROGATORIES will provide critical assistance to the Attorney General in answering questions such as the following:

a. Are crimes such as drug dealing and prostitution occurring in the thousands of foreclosed California homes owned by FREDDIE MAC?

b. Are toxic materials, explosives, fire hazards, mosquito-filled pools, or other dangers to the health or safety of Californians present at foreclosed homes owned by FREDDIE MAC?

c. How should state and local law enforcement and regulatory agencies address the problems posed by foreclosed properties? How should they coordinate those efforts with other agencies, including federal law enforcement and regulatory agencies?

d. Are taxes being paid on foreclosed homes owned by FREDDIE MAC in compliance with California law, as expressly authorized by 12 U.S.C. § 1452(e)?

e. Have military families, including members of the California National Guard, been illegally foreclosed upon or evicted by loan servicers or property managers?

f. Did brokers, underwriters, former corporate officials, or others violate California's securities laws in connection with the marketing or sale of securities issued by FREDDIE MAC, particularly in light of the SEC's charges against FREDDIE MAC's former executives and the facts recited in FREDDIE MAC's non-prosecution agreement with the SEC?

g. Did loan servicers, property managers, attorneys, or others make false statements to California state courts, county recorders, or other officials in connection with foreclosures, evictions, or other actions or proceedings governed by California state law?

h. Have loan servicers, property managers, or others violated California civil rights laws in connection with foreclosures, evictions, or the servicing of loans?

i. Are legal or regulatory reforms needed to address the harmful effects of foreclosures on California communities or to fix the foreclosure process?

22. A true and correct copy of the INVESTIGATIVE INTERROGATORIES is attached hereto as Exhibit A.

23. On November 15, 2011, the INVESTIGATIVE INTERROGATORIES were properly served on FREDDIE MAC. A true and correct copy of the proof of service is attached hereto as Exhibit B.

FREDDIE MAC'S REFUSAL TO ANSWER THE INTERROGATORIES

24. FREDDIE MAC has failed to answer the INVESTIGATIVE INTERROGATORIES.

25. On November 28, 2011, two Deputy Attorneys General from the Mortgage Fraud Strike Force spoke with counsel for FREDDIE MAC's conservator to discuss the INVESTIGATIVE INTERROGATORIES. The Strike Force attorneys answered all of the conservator's questions, agreed verbally to narrow the scope of certain requests, and volunteered to work cooperatively with FREDDIE MAC and its conservator.

26. On December 9, 2011, the conservator's outside counsel sent a letter to one of the Strike Force attorneys, a true and correct copy of which is attached as Exhibit C. The letter demands that the Attorney General withdraw the INVESTIGATIVE INTERROGATORIES, and asserts that "no state Attorney General has the authority to issue an administrative subpoena or investigative interrogatories to [FREDDIE MAC], and no court may compel a response to such interrogatories."

27. The conservator's position is incorrect. No law exempts FREDDIE MAC from responding to the Attorney General's INVESTIGATIVE INTERROGATORIES. The conservator contends that federal law preempts the Attorney General from issuing the INVESTIGATIVE INTERROGATORIES, but none of the authorities cited by the conservator support this position.

28. For example, the conservator repeatedly cites the federal visitorial powers doctrine in support of its preemption claims. However, the visitorial powers doctrine is a creature of statute, and by its terms applies only to national banks. (12 U.S.C. § 484(a) ["No national bank shall be subject to any visitorial powers except as authorized by Federal law"].) FREDDIE MAC is not a national bank. It is therefore not covered by the visitorial powers doctrine. Moreover, there is no analogous prohibition on the state exercise of visitorial powers in any of the statutes governing FREDDIE MAC.

29. Additionally, the conservator's preemption argument relies on a faulty premise - that the Attorney General is attempting to "regulate" FREDDIE MAC. She is not. She is gathering information by posing questions to a percipient witness.

30. The conservator also claims that *its own* governing legislation bars the Attorney General from investigating *it*. But the INVESTIGATIVE INTERROGATORIES are not addressed to the conservator. They are addressed to FREDDIE MAC and only seek information from FREDDIE MAC. FREDDIE MAC is not a governmental agency and did not become one by virtue of being placed in a temporary conservatorship. It is a private corporation and its records remain private corporate records.

31. Further, real property owned by FREDDIE MAC is "subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed." (12 U.S.C. § 1452(e).) Neither FREDDIE MAC nor its conservator explains why the Attorney General cannot investigate whether California taxes have been paid on these properties.

32. More generally, FREDDIE MAC and its conservator do not explain why they are frustrating the Attorney General's efforts to investigate and combat crime, blight and other threats to the health and safety of Californians. It is the Attorney General – and not FREDDIE MAC or its conservator – who has the primary duty to abate public nuisances and investigate and prosecute crimes committed at foreclosed properties in California.

33. Finally, the conservator contends that answering the INVESTIGATIVE INTERROGATORIES would impose an undue burden on FREDDIE MAC. As noted above, the Attorney General's Strike Force has already expressed its willingness to cooperate with FREDDIE MAC to address any concerns regarding burdensomeness. Moreover, FREDDIE MAC is an extremely large enterprise, not a "mom and pop" company. It has more than 5,200 employees, assets of $2,261,780,000,000, and annual administrative expenses of $1,546,000,000. It is well within FREDDIE MAC's ability to answer these interrogatories, which call for information as straightforward as a list of the properties owned by FREDDIE MAC in California.

THIS COURT'S AUTHORITY TO ORDER COMPLIANCE WITH THE INTERROGATORIES

34. Government Code section 11187 provides that if a witness has failed and refused to answer investigative interrogatories, the head of the department issuing the interrogatories may petition the Superior Court for an order compelling compliance. That section further provides that a proceeding, such as this one, brought by the Attorney General or other appropriate official shall be the sole vehicle for determining the validity of any objections to the interrogatories.

PRAYER FOR RELIEF

Pursuant to Government Code sections 11187 and 12659, the Attorney General prays that this Court:

1. Issue an order directing FREDDIE MAC to appear before this Court and to show cause why it has refused to comply with the INVESTIGATIVE INTERROGATORIES and, upon FREDDIE MAC's failure to show cause, enter an order directing FREDDIE MAC to give complete, responsive and verified answers to the INVESTIGATIVE INTERROGATORIES; and

2. Award the People such other and further relief the Court deems just, proper and equitable, including all costs allowed by law.

Dated: December 19, 2011

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California
MARTIN H. GOYETTE
Senior Assistant Attorney General
FREDERICK W. ACKER
AMY C. TENG
Deputy Attorneys General

NICKLAS A. AKERS
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EXHIBIT A

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BEFORE THE DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

STATE OF CALIFORNIA

In the Matter of the Investigation of: **FANNIE MAE AND FREDDIE MAC**	**INVESTIGATIVE INTERROGATORIES** **SET NUMBER ONE** [GOV. CODE § 11180]

NOTICE TO THE PERSON SERVED

You are served on behalf of: **FEDERAL HOME LOAN MORTGAGE CORPORATION**

INVESTIGATIVE INTERROGATORIES

Pursuant to the powers conferred by Article 2 of Chapter 2 of Part 1, and Article 10 of Chapter 6 of Part 2, of Division 3 of Title 2 of the Government Code of California (Cal. Gov. Code §§ 11180 et seq. and 12659), on the Attorney General, as head of the California Department of Justice, which powers and authority to conduct the above entitled investigation have been delegated to the undersigned, an officer of that Department,

FEDERAL HOME LOAN MORTGAGE CORPORATION

IS HEREBY COMMANDED to answer separately AND fully in writing, under oath, within thirty days of service hereof, each of the interrogatories set forth below.

INSTRUCTIONS FOR COMPLIANCE

1. An answer OR other appropriate response must be given to each interrogatory set forth below.

2. Each answer must be as complete AND straightforward as the information reasonably available to YOU, including the information possessed by YOUR attorneys OR agents, permits. If an interrogatory cannot be answered completely, answer it to the extent possible, specifying the reasons for YOUR inability to answer the remainder of the interrogatory AND stating whatever information, knowledge OR belief YOU do have concerning the unanswered portion thereof.

3. For each AND every interrogatory OR part of an interrogatory which YOU refuse to answer under a claim of privilege, YOU must IDENTIFY the nature of the information withheld; specify the basis AND grounds for the claimed privilege AND the specific interrogatory to which the information is responsive; AND IDENTIFY each person who was the source of the information, OR to whom the information, OR any part thereof, has been disclosed. If an objection pertains to only a portion of an interrogatory, OR a word, phrase, OR clause contained in it, YOU must respond to the remainder of the Interrogatory.

4. YOUR answers to these interrogatories must be verified, dated, AND signed. YOU may wish to use the following form at the end of your answers:

I declare under penalty of perjury under the laws of the State of California that the foregoing answers are true and correct.

_____ _____

(DATE) *(SIGNATURE)*

5. These Investigative Interrogatories have been issued in connection with an investigation within the scope of Section 131 of the California Penal Code.

6. YOUR written responses shall be delivered to Deputy Attorney General Nicklas A. Akers, c/o Starley Wagner, Senior Legal Analyst, California Department of Justice, 1300 I Street, Sacramento, CA 95814.

7. If an interrogatory requests quantitative information, such as a count, total, amount, proportion OR percentage, AND YOU are unable to set forth an exact figure, explain why, give YOUR best estimate OR approximation, AND set forth the basis for YOUR estimate OR approximation. If YOU are unable to give an estimate OR approximation, state so AND explain why YOU are unable to give an estimate OR approximation.

8. If an interrogatory requests information on an annual OR other periodic basis, AND YOU cannot provide the information on that basis, explain why, provide the information on whatever basis you can, AND describe the period of time covered by the data.

9. Where an interrogatory requests demographics, by count and percent, please provide your response in substantially the following form:

MORTGAGES OWNED - FIRST QUARTER 2011			
Primary Borrower Race		Count	Percent
Black or African American	Hispanic/Latino	1	10%
	Not Hispanic/Latino	1	10%
Asian	Hispanic/Latino	1	10%
	Not Hispanic/Latino	1	10%
Native Hawaiian/Pacific Islander	Hispanic/Latino	1	10%
	Not Hispanic/Latino	1	10%
American Indian/Alaskan	Hispanic/Latino	1	10%
	Not Hispanic/Latino	1	10%
White	Hispanic/Latino	1	10%
	Not Hispanic/Latino	1	10%
Two or More Races	Hispanic/Latino	0	0%
	Not Hispanic/Latino	0	0%

Unknown	Hispanic/Latino	0	0%
	Not Hispanic/Latino	0	0%
Total		10	100%
Primary Borrower Sex		Count	Percent
Male		5	50%
Female		5	50%
Unknown		0	0%
Total		10	100%
Primary Borrower Marital Status		Count	Percent
Married		5	50%
Separated		0	0%
Unmarried (includes single, divorced, widowed)		5	50%
Unknown		0	0%
Total		10	100%
Primary Borrower Dependents		Count	Percent
One or more dependent under age 18		5	50%
No dependents under age 18		5	50%
Unknown		0	0%
Total		10	100%

10. Where an interrogatory requests a loan-to-value ratio and combined loan-to-value ratio distribution, by count and percent, please provide your response in substantially the following form:

MODIFICATION APPLICATIONS GRANTED - FIRST QUARTER 2011					
CLTV Ratio	Count	Percent	LTV Ratio	Count	Percent
175 or greater	5	50%	175 or greater	5	50%
150-174	5	50%	150-174	5	50%
125-149	0	0%	125-149	0	0%
100-124	0	0%	100-124	0	0%
90-99	0	0%	90-99	0	0%
80-89	0	0%	80-89	0	0%
0-79	0	0%	0-79	0	0%
Total	10	100%	Total	10	100%

11. Unless otherwise specified, these interrogatories are limited to the time period from January 1, 2007, to and including the date of service of these interrogatories.

12. No agreement, understanding, OR stipulation purporting to modify, limit, OR otherwise vary these interrogatories shall be valid OR binding unless confirmed OR acknowledged in writing (OR made of record in open court) by a duly authorized representative of the California Department of Justice, Office of the Attorney General.

DEFINITIONS

For purposes of this set of investigatory interrogatories, the terms set forth below are defined as follows:

A. "ALLEGED" AND "ALLEGATION" mean a statement, representation, allegation, finding, OR assertion that a thing has occurred or will occur. They include ALLEGATIONS AND things that are ALLEGED in a notice, bill (including a tax bill or notice), complaint, petition, citation, order, judgment, property OR delinquency list OR roll, public record, OR filing OR order made OR issued in an administrative, civil OR criminal action OR proceeding.

B. "AND" and "OR" have both conjunctive and disjunctive meanings.

C. "BIOHAZARDOUS SUBSTANCE" includes any U.S. Department of Transportation Class 6.2 material. It does not include the blood, tissue, or bodily fluid of an individual who is authorized to reside at a PROPERTY owned by YOU pursuant to a lease or other agreement.

D. "CALIFORNIA GOVERNMENT AGENCY" is the State of California, any CALIFORNIA LOCAL GOVERNMENT, AND every department OR agency of the State of California OR of a CALIFORNIA LOCAL GOVERNMENT. It includes, without limitation, the State Treasurer, the California Public Employees Retirement System, the California State Teachers Retirement System, AND the treasurer AND retirement system of each CALIFORNIA LOCAL GOVERNMENT.

E. "CALIFORNIA LOCAL GOVERNMENT" means AND includes any city, city and county, county, tax OR assessment district, school district, special district, joint powers authority, OR other legally authorized local governmental entity within the State of California.

F. "CARCINOGEN OR TERATOGEN" means any chemical, substance, material, OR thing, OR category thereof, included on the list titled "Chemicals Known to the State to Cause Cancer or Reproductive Toxicity" dated November 4, 2011, issued by the State of California, Office of Environmental Health Hazard Assessment, unless human exposure to the chemical, substance, material, or thing has not exceeded and will not exceed a No Significant Risk Level or Maximum Allowable Dose Level established by the Office of Environmental Health Hazard Assessment.

G. "DOCUMENT" OR "DOCUMENTS" means the original AND all non-identical copies AND drafts, regardless of origin OR location, of any information, writing OR data stored in

paper, electronic, tape OR any other format, including without limitation written OR printed matter, video OR audiotapes, image-bearing film, photographs AND images, AND electronically stored information. It further includes without limitation letters, telegrams, telexes, facsimiles, correspondence, memoranda, email, video, voicemail, reports, contracts, studies, calendar OR diary entries, minutes, pamphlets, handwritten notes, charts, tabulations, records of meetings, conferences, telephone, Bloomberg terminal, OR other conversations OR communications, AND tapes OR slides, as well as computer files, directories, AND programs in whatever form.

H. "EXPLOSIVE MATERIAL" includes any U.S. Department of Transportation Class 1 material.

I. "FREDDIE MAC" "YOU" and "YOUR" mean the Federal Home Loan Mortgage Corporation, its subsidiaries AND affiliates, AND all employees, officers, agents AND representatives of the same. They do not include the Federal Housing Finance Agency.

J. "IDENTIFY" as applied to a natural person OR persons, means to state the name, address, telephone number, employer, AND job title.

K. "IDENTIFY" as applied to a person that is a corporation OR other entity, means to state the name, address, type of entity, jurisdiction of incorporation, registration, OR formation, AND address of the principal place of business.

L. "IDENTIFY" as applied to a PROPERTY, means to describe a property by setting forth the address, county, AND assessor's parcel number of the PROPERTY, the date on which YOU acquired the PROPERTY, the date on which YOUR ownership of the PROPERTY ended (if applicable) AND, if YOU currently own the property: (a) stating whether the PROPERTY is occupied OR vacant; (b) IDENTIFYING the person responsible for maintaining the PROPERTY; and (c) IDENTIFYING the person responsible for paying taxes owed on the PROPERTY.

M. "IDENTIFY" as applied to a SECURITY means to state the name of the security, the name of its issuer, sponsor, and underwriter(s), its SEC file number, its CUSIP, the date on which it was issued, and its specific class, certificate OR tranche.

N. "LAW" means any statute, regulation, ordinance, order, OR code promulgated by any federal, state OR local government.

O. "MORTGAGE" means a mortgage OR deed of trust.

P. "CALIFORNIA MORTGAGE" means a MORTGAGE on a CALIFORNIA PROPERTY.

Q. "MORTGAGE NOTE" means, for a MORTGAGE, the promissory note OR other evidence of indebtedness of the mortgagor.

R. "PROPERTY" means any real property, including land and structures and improvements built thereon. It includes, without limitation, land, buildings, and any condominium OR common interest development.

S. "CALIFORNIA PROPERTY" means a PROPERTY located in the State of California.

T. "RADIOACTIVE MATERIAL" includes any U.S. Department of Transportation Class 7 material.

U. "SECURITY" has the meaning set forth at Section 25019 of the California Corporations Code. It includes, without limitation, stock, bonds, mortgage backed securities, mortgage pass-through certificates, collateralized debt obligations, AND structured investment vehicles.

INTERROGATORIES

INTERROGATORY NO. 1

IDENTIFY each CALIFORNIA PROPERTY that is currently owned by YOU.

INTERROGATORY NO. 2

Are delinquent taxes owed or ALLEGED to be owed on any CALIFORNIA PROPERTY that is owned by YOU? If so, for each such PROPERTY, IDENTIFY the PROPERTY, AND state the amount owed or alleged to be owed, the date on which the taxes were due or alleged to be due, AND the governmental entity to which the tax is owed or alleged to be owed.

INTERROGATORY NO. 3

Are YOU aware of any ALLEGATIONS, reports OR evidence that the importation, cultivation, manufacture, OR distribution of any drug OR narcotic, including without limitation methamphetamine, cocaine, heroin, OR marijuana, has occurred, or is occurring, at any CALIFORNIA PROPERTY that is owned by YOU? If so, describe the date, time AND

substance of each such ALLEGATION, report, OR evidence, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 4

Are YOU aware of any ALLEGATIONS, reports OR evidence that prostitution has occurred, or is occurring, at any CALIFORNIA PROPERTY that is owned by YOU? If so, describe the date, time AND substance of each such ALLEGATION, report, OR evidence, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 5

Are YOU aware of any ALLEGATIONS, reports OR evidence that the unlawful importation, manufacture OR distribution of alcoholic beverages has occurred, or is occurring, at any CALIFORNIA PROPERTY that is owned by YOU? If so, describe the date, time AND substance of each such ALLEGATION, report, OR evidence, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 6

Are YOU aware of any ALLEGATIONS, reports OR evidence that a violation of any LAW concerning fire safety, fire prevention, brush clearance, OR weed abatement has occurred, or is occurring, at any CALIFORNIA PROPERTY owned by YOU? If so, describe the date, time AND substance of each such ALLEGATION, report, OR evidence, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 7

Are YOU aware of any ALLEGATIONS, reports OR evidence that a violation of any LAW concerning sanitation, habitability, lead abatement, dumping, littering, OR waste disposal has occurred, or is occurring, at any CALIFORNIA PROPERTY owned by YOU? If so, describe the date, time AND substance of each such ALLEGATION, report, OR evidence, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 8

Are YOU aware of any ALLEGATIONS, reports OR evidence that a violation of any LAW concerning mosquito abatement OR vector control has occurred, or is occurring, at any

CALIFORNIA PROPERTY owned by YOU? If so, describe the date, time AND substance of each such ALLEGATION, report, OR evidence, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 9

Are YOU aware of any ALLEGATIONS, reports OR evidence that vandalism OR theft, including without limitation the theft of copper pipe or other building materials, has occurred or is occurring at any CALIFORNIA PROPERTY that is owned by YOU? If so, describe the date, time AND substance of each such ALLEGATION, report, OR evidence, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 10

Is any EXPLOSIVE MATERIAL, including without limitation ammunition, present at any CALIFORNIA PROPERTY owned by YOU? If so IDENTIFY each PROPERTY where such material is present and, for each property, list the type and quantity of material present, and describe how and where it is stored.

INTERROGATORY NO. 11

Is any BIOHAZARDOUS SUBSTANCE, including without limitation any used hypodermic needle, present at any CALIFORNIA PROPERTY owned by YOU? If so IDENTIFY each PROPERTY where such material is present and, for each property, list the type and quantity of material present, and describe how and where it is stored.

INTERROGATORY NO. 12

Is any RADIOACTIVE MATERIAL present at any CALIFORNIA PROPERTY owned by YOU? If so IDENTIFY each PROPERTY where such material is present and, for each property, list the type and quantity of material present, and describe how and where it is stored.

INTERROGATORY NO. 13

Is any CARCINOGEN OR TERATOGEN present at any CALIFORNIA PROPERTY owned by YOU? If so IDENTIFY each PROPERTY where such material is present and, for each property, list the type and quantity of material present, and describe how and where it is stored.

INTERROGATORY NO. 14

Is any Schedule I Controlled Substance present at any CALIFORNIA PROPERTY owned by YOU? If so IDENTIFY each PROPERTY where such material is present and, for each property, list the type and quantity of material present, and describe how and where it is stored.

INTERROGATORY NO. 15

Has any spouse, child, OR other dependent of a person who is serving on federal OR state active duty in the California National Guard OR the Armed Forces of the United States ever been evicted from a CALIFORNIA PROPERTY owned by YOU? If so, state the date of the eviction, IDENTIFY the person(s) evicted, IDENTIFY each person who conducted, authorized, OR otherwise participated in the eviction, IDENTIFY the associated PROPERTY, AND state the case name, court AND docket number of any judicial proceeding which authorized the eviction.

INTERROGATORY NO. 16

Are you aware of any ALLEGATIONS, reports OR evidence that any person has ever been evicted from a CALIFORNIA PROPERTY owned by YOU in violation of 50 U.S.C. App. § 531(a)? If so, state the date of the eviction, IDENTIFY the person(s) evicted, IDENTIFY each person who conducted, authorized, OR otherwise participated in the eviction, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 17

Are you aware of any ALLEGATIONS, reports OR evidence that any person has ever been evicted from a CALIFORNIA PROPERTY owned by YOU in violation of Section 406 of the California Military and Veterans Code? If so, state the date of the eviction, IDENTIFY the person(s) evicted, IDENTIFY each person who conducted, authorized, OR otherwise participated in the eviction, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 18

Has any CALIFORNIA PROPERTY subject to a MORTGAGE owned by YOU ever been foreclosed upon while the owner of the property was serving on federal OR state active duty in the California National Guard OR the Armed Forces of the United States, OR within 90 days of release from such service? If so, state the date of the foreclosure, IDENTIFY the owner(s) of the property at the time of foreclosure, IDENTIFY each person who conducted, authorized, OR

otherwise participated in the foreclosure, IDENTIFY the associated PROPERTY, AND state the case name, court AND docket number of any judicial proceeding which authorized the foreclosure.

INTERROGATORY NO. 19

Are you aware of any ALLEGATIONS, reports OR evidence that a CALIFORNIA PROPERTY subject to a MORTGAGE owned by YOU has ever been foreclosed upon in violation of the Servicemembers Civil Relief Act, 50 U.S.C. App. § 531? If so, state the date of the foreclosure, IDENTIFY the owner(s) of the property at the time of foreclosure, IDENTIFY each person who conducted, authorized, OR otherwise participated in the foreclosure, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 20

Are you aware of any ALLEGATIONS, reports OR evidence that a CALIFORNIA PROPERTY subject to a MORTGAGE owned by YOU has ever been foreclosed upon in violation of Section 408 of the California Military and Veterans Code? If so, state the date of the foreclosure, IDENTIFY the owner(s) of the property at the time of foreclosure, IDENTIFY each person who conducted, authorized, OR otherwise participated in the foreclosure, AND IDENTIFY the associated PROPERTY.

INTERROGATORY NO. 21

IDENTIFY each SECURITY issued, sponsored, sold, marketed, OR underwritten by YOU that was purchased by a CALIFORNIA GOVERNMENT AGENCY, state the name of the CALIFORNIA GOVERNMENT AGENCY making the purchase, AND state the date on which the purchase was made.

INTERROGATORY NO. 22

Identify (by stating: the names of the parties the case name, docket OR file number; name AND location of the court, arbitrator, mediator, administrative agency OR other forum, current status, AND any disposition) each lawsuit, arbitration, mediation, administrative proceeding, OR other claim OR dispute involving, concerning, OR arising from any statement, act, omission, representation, OR warranty made in connection with any SECURITY issued, sponsored, sold,

marketed, OR underwritten by YOU that was purchased by a CALIFORNIA GOVERNMENT AGENCY.

INTERROGATORY NO. 23

Did any prospectus, prospectus supplement, OR private placement memorandum concerning any SECURITY issued, sponsored, sold, marketed, OR underwritten by YOU that was purchased by a CALIFORNIA GOVERNMENT AGENCY contain any false, untrue, inaccurate OR erroneous statements OR representations? If so, IDENTIFY the SECURITY at issue, list each such statement OR representation, AND describe how it was false, untrue, inaccurate OR erroneous.

INTERROGATORY NO. 24

Did any prospectus, prospectus supplement, OR private placement memorandum concerning any SECURITY issued, sponsored, sold, marketed, OR underwritten by YOU that was purchased by a CALIFORNIA GOVERNMENT AGENCY omit any facts that would have been necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading? If so, IDENTIFY the SECURITY at issue, AND list each such omitted fact.

INTERROGATORY NO. 25

Did any prospectus, prospectus supplement, OR private placement memorandum concerning any SECURITY issued, sponsored, sold, marketed, OR underwritten by YOU contain any false, untrue, inaccurate OR erroneous statements OR representations? If so, IDENTIFY the SECURITY AND list each such omitted fact.

INTERROGATORY NO. 26

Did any prospectus, prospectus supplement, OR private placement memorandum concerning any SECURITY issued, sponsored, sold, marketed, OR underwritten by YOU omit any facts that would have been necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading? If so, IDENTIFY the SECURITY AND list each such omitted fact.

INTERROGATORY NO. 27

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent,[1] for CALIFORNIA MORTGAGES owned by YOU?

INTERROGATORY NO. 28

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES purchased by YOU?

INTERROGATORY NO. 29

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU that were foreclosed upon?

INTERROGATORY NO. 30

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU for which a notice of default was recorded?

INTERROGATORY NO. 31

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU for which a notice of sale was recorded?

INTERROGATORY NO. 32

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU that were delinquent by 30 days OR more at least once during the year?

INTERROGATORY NO. 33

[1] See Paragraph 9 of the Instructions for Compliance

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU that were delinquent by 60 days OR more at least once during the year?

INTERROGATORY NO. 34

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU that were delinquent by 90 days OR more at least once during the year?

INTERROGATORY NO. 35

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU where the borrower applied for a loan modification, including without limitation a trial OR temporary loan modification.

INTERROGATORY NO. 36

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU for which a loan modification, including without limitation a trial OR temporary loan modification, was granted?

INTERROGATORY NO. 37

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU for which a loan modification, including without limitation a trial OR temporary loan modification, was denied?

INTERROGATORY NO. 38

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU where a loan modification, including without limitation a trial

OR temporary loan modification, was cancelled, withdrawn, revoked, discontinued, OR otherwise terminated?

INTERROGATORY NO. 39

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU where a trial OR temporary loan modification was not converted to a permanent loan modification?

INTERROGATORY NO. 40

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU where the borrower applied for a forbearance?

INTERROGATORY NO. 41

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU for which a forbearance was granted?

INTERROGATORY NO. 42

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU for which a forbearance was denied?

INTERROGATORY NO. 43

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU where the borrower applied for permission to conduct a short sale?

INTERROGATORY NO. 44

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU for which permission to conduct a short sale was granted?

INTERROGATORY NO. 45

For each year between 2006 and the present, and for each of the first two quarters of 2011, what were the primary borrower demographics, by count and percent, for CALIFORNIA MORTGAGES owned by YOU for which permission to conduct a short sale was denied?

INTERROGATORY NO. 46

For each year between 2006 and the present, and for each of the first two quarters of 2011, IDENTIFY each servicer that serviced CALIFORNIA MORTGAGES owned by YOU, and state the number of YOUR CALIFORNIA MORTGAGES serviced by each such servicer.

INTERROGATORY NO. 47

For each year between 2006 and the present, and for each of the first two quarters of 2011, what was the loan-to-value ratio and combined loan-to-value ratio distribution, by count and percent,[2] at the time of application for modification, for CALIFORNIA MORTGAGES owned by YOU where the borrower applied for a loan modification, including without limitation a trial OR temporary loan modification.

INTERROGATORY NO. 48

For each year between 2006 and the present, and for each of the first two quarters of 2011, what was the loan-to-value ratio and combined loan-to-value ratio distribution, by count and percent, at the time of application for modification, for CALIFORNIA MORTGAGES owned by YOU for which a loan modification, including without limitation a trial OR temporary loan modification, was granted?

INTERROGATORY NO. 49

For each year between 2006 and the present, and for each of the first two quarters of 2011, what was the loan-to-value ratio and combined loan-to-value ratio distribution, by count and percent, at the time of application for modification, for CALIFORNIA MORTGAGES owned by YOU for which a loan modification, including without limitation a trial OR temporary loan modification, was denied?

[2] See Paragraph 10 of the Instructions for Compliance

INTERROGATORY NO. 50

IDENTIFY each person who prepared OR assisted in the preparation of the responses to these interrogatories. (Do not IDENTIFY anyone who simply typed OR reproduced the responses.)

INTERROGATORY NO. 51

Identify by name, author, date, AND location of each DOCUMENT that YOU reviewed OR relied upon in preparing the responses to these interrogatories, state the current location of each such document, AND IDENTIFY each person who has each such document.

FAILURE TO COMPLY WITH THIS SET OF INVESTIGATIVE INTERROGATORIES WILL SUBJECT YOU TO THE PROCEEDINGS AND PENALTIES PROVIDED BY LAW.

Date Issued: November 15, 2011

NICKLAS A. AKERS
Deputy Attorney General

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EXHIBIT B

PROOF OF SERVICE

I am employed in the County of Montgomery, State of Maryland. I am over the age of eighteen (18) years and not a party to the within action; my business address is: 13 Winesap Court, Gaithersburg, MD 20878.

On ***November 15, 2011,*** I personally served the document(s) as described below:

INVESTIGATIVE INTERROGATORIES SET NUMBER ONE
[GOV. CODE § 11180]

on the interested parties in this action by delivering a copy of said document(s) to the party listed below:

Charles E. Hadleman, Jr., President, C.E.O.
FEDERAL HOME LOAN MORTGAGE CORPORATION
8200 Jones Branch drive
McLean, Virginia 22102

[] (BY MAIL) I am readily familiar with the firm's practice of collection and processing correspondence by mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage fully prepaid at _____ in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[] (BY FACSIMILE) I caused such document to be delivered by facsimile transmission to the offices of the addressee.

[X] **(BY PERSONAL DELIVERY)** I delivered such documents by hand to the offices of the addressee.

[X] **(STATE)** I declare under penalty of perjury under the laws of the State of Maryland that the above is true and correct.

[] (FEDERAL) I declare that I am employed by the offices of a member of this Court at whose direction the service was made.

Executed on November 15, 2011 at Gaithersburg, Maryland.

Scot N. Singleton
PRINT NAME

SIGNATURE

#845376.al

EXHIBIT C

ARNOLD & PORTER LLP

Asim Varma
Asim.Varma@aporter.com
202.942.5180
202.942.5999 Fax
555 Twelfth Street, NW
Washington, DC 20004-1206

December 9, 2011

Via Federal Express and E-mail

Nicklas A. Akers
Deputy Attorney General
455 Golden Gate Avenue
Suite 11000
San Francisco, CA 94102-7004

Re: In the Matter of the Investigation of Fannie Mae and Freddie Mac:
Investigative Interrogatories to Fannie Mae and Freddie Mac

Dear Mr. Akers:

On behalf of the Federal Housing Finance Agency ("FHFA"), I am responding to the investigative interrogatories served by the California Attorney General's office on the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") (together the "Enterprises") on November 15, 2011. I, along with FHFA General Counsel Alfred Pollard, express our appreciation for the time you and your staff took to address the meaning of a number of the interrogatories.

FHFA is the supervisory regulator of the Enterprises and as such is charged with the responsibility to ensure that they operate safely and soundly and comply with applicable laws and regulations. 12 U.S.C. § 4513(a). Additionally, since September 6, 2008, FHFA has also been Conservator of the Enterprises and in that capacity has the authority to direct Enterprise operations, with a congressional mandate to preserve and conserve assets. 12 U.S.C. § 4617(b)(2)(D). As Conservator, FHFA has succeeded to "all rights, titles, powers, and privileges of [the Enterprises]," 12 U.S.C. § 4617(a)(2)(A), and has authority to "take over the assets of and operate [the Enterprises]." 12 U.S.C. § 4617(a)(2)(B). Pursuant to its powers and functions as regulator and Conservator, and on behalf of the Enterprises, FHFA submits the following response to the interrogatories issued to the Enterprises on November 15, 2011.

The interrogatories are frequently vague and ambiguous and appear to seek a voluminous amount of information. The burden to collect that information would be nothing short of staggering. For example, interrogatory 1 seeks the identity of the over 20,000 California properties owned by the Enterprises. Interrogatories 2 through 16 seek, *inter alia*, information that might be known by the Enterprises and their agents relating to allegations that a violation of law (*e.g.*, distribution of drugs, unlawful distribution of alcohol, prostitution, littering, waste disposal, vandalism) has at any time occurred on such property. However, the Enterprises do not have systems in place to retrieve such information, even if known to them. These properties are managed by over 500 local contractors who are brokers or property managers. The burden of surveying these contractors, who may or may not have responsive information, to determine their level of knowledge relating to thousands of properties would be overwhelming. Interrogatories 21-26 seek information relating to securities issued by Fannie Mae and Freddie Mac, including the identification of each California government agency that has purchased such securities. With limited exceptions, the Enterprises do not know who has purchased their securities once they are on the market. The bulk of the remainder of the interrogatories seek information about borrower demographics for mortgages in foreclosure and mortgage modifications; again, information that may not be in the possession of the Enterprises. The overbroad scope and unfocused nature of the interrogatories suggests to FHFA that the Attorney General is engaged in an open-ended exploratory investigation of Fannie Mae and Freddie Mac.

Regardless of the subject of the investigation, however, Congress has conferred exclusively on FHFA the authority to regulate the Enterprises. As described in greater detail below, no state Attorney General has the authority to issue an administrative subpoena or investigative interrogatories to the Enterprises, and no court may compel a response to such interrogatories.

An open-ended investigation of the Enterprises by the California Attorney General, including compliance with overbroad interrogatories, will not only undermine FHFA's supervisory authority, but also place a significant burden on the ongoing operation of the conservatorships. In light of the burden, FHFA has determined that it would divert scarce and valuable resources of the Enterprises to respond to the interrogatories. Given the California Attorney General's lack of authority to issue investigative interrogatories to the Enterprises, FHFA has determined that it is therefore not in the best interests of the conservatorships to respond to the interrogatories and has directed them not to respond. Accordingly, with all due respect, the Office of the Attorney General should withdraw the interrogatories to Fannie Mae and Freddie Mac.

1. The California Attorney General Lacks The Power to Investigate the Enterprises.

The California Attorney General lacks the power to command the Enterprises to respond to interrogatories and produce documents because federal law vests FHFA with exclusive regulatory power over the Enterprises. Federal law preempts state law if a "'scheme of federal regulation [is] so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it.'" *Fidelity Fed. Sav. & Loan Ass'n v. de la Cuesta*, 458 U.S. 141, 153 (1982) (quoting *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947)). For example, "the regulatory control of the [Federal Home Loan] Bank Board over federal savings and loan associations [was] so pervasive as to leave no room for state regulatory control." *Conf. of Fed. Sav. & Loan Ass'ns v. Stein*, 604 F.2d 1256, 1260 (9th Cir. 1979), *aff'd*, 445 U.S. 921 (1980). Therefore, "[i]f state-conferred rights are to be enforced against the federal associations by any regulatory body . . ., enforcement must be by the Bank Board." *Id.*; *see also California v. Coast Fed. Sav. & Loan Ass'n*, 98 F. Supp. 311, 316 (S.D. Cal. 1951) ("No provision is made for sharing the Board's delegated authority with state regulatory or supervisory agencies.").

FHFA's regulatory control of the Enterprises is plenary and pervasive. The Enterprises are "subject to the supervision and regulation of the Agency," and the Director "shall exercise such general regulatory authority . . . to ensure that the purposes of [the Safety and Soundness] Act, the authorizing statutes, and *any other applicable law* are carried out." 12 U.S.C. §§ 4511(b)(1), (2) (emphasis added). FHFA has the responsibility and duty to ensure that the Enterprises operate in a "safe and sound manner, including maintenance of adequate capital and internal controls" and is "charged with establishing and enforcing standards relating to the management of market risk." 12 U.S.C. § 4513(a)(i); 12 U.S.C. § 4513b(a); *see also* provisions setting forth FHFA's prudential and enforcement duties and plenary authority, 12 U.S.C. § 4514; 12 U.S.C. § 4517(a), (b); 12 U.S.C. § 4541(a); 12 U.S.C. § 4566(a); 12 U.S.C. § 4611(a)(1); 12 U.S.C. § 4611(a)(1); 12 U.S.C. § 4642(a).

In fact, FHFA's oversight of Fannie Mae is much more extensive and plenary than even the Bank Board's power was over savings and loan associations, which oversight was held to preempt the field and withdraw state regulatory authority and investigative powers in *Stein*. *Compare* the provisions cited above with 12 U.S.C. § 1464(a) ("the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as 'Federal Savings and Loan Associations'"), *quoted in Stein*, 604 F.2d at 1258.

Indeed, allowing the California Attorney General to exercise supervisory power over the Enterprises by demanding information and documents would frustrate Congress's purpose and objective in enacting the regulatory and supervisory provisions of HERA — permitting such a demand would leave the Enterprises subject to the supervisory authority and demands of all fifty states and the District of Columbia. See *Watters v. Wachovia Bank, N.A.*, 550 U.S. 1, (2007) (invalidating Michigan law requiring a national bank's operating subsidiary to state registration and inspection requirements because national banks would be subject to registration, inspection, and enforcement regimes imposed not just by Michigan, but by all States in which the banks operate); *State Farm Bank, FSB v. Reardon*, 539 F.3d 336, 348 (6th Cir. 2008) ("[s]ubjecting State Farm Bank and its exclusive agents to such a veritable 'hodgepodge' of state regulation would not only be unduly burdensome, it would also be at odds with the very purpose behind federal regulation of federal savings associations"). The California Attorney General's investigation of the Enterprises presents the same dangers of multiple state regulation and inspection of national banks that the Supreme Court warned against in *Watters*. Conceivably, the other attorneys general could likewise commence investigations into Enterprise holdings of property and mortgages, subjecting them to various and competing standards. This is precisely what Congress determined to avoid when it granted the FHFA broad and exclusive regulatory authority over the Enterprises. Accordingly, the California Attorney General lacks authority to issue investigative interrogatories to the Enterprises because Congress has provided that federal supervision and regulation occupy the field.

2. **During Conservatorship HERA Expressly Withdraws Any Jurisdiction the California Attorney General Might Otherwise Have Over the Enterprises.**

The Housing and Economic Recovery Act ("HERA") expressly provides that during conservatorship state agencies lack the authority to issue administrative subpoenas and investigative interrogatories to the Enterprises. While the pervasive federal regulatory scheme displaces the California Attorney General's authority to issue such subpoenas at any time, it is particularly clear that the state agency lacks this power during the present conservatorships. Title 12 U.S.C. § 4617(a)(7) provides that "[w]hen acting as conservator or receiver, the [Federal Housing Finance] Agency shall not be subject to the direction or supervision of any ... agency of . . . any State in the exercise of the rights, powers and privileges of the Agency." This statute is an "express preemption provision." *Waterview Mgmt. Co. v. FDIC*, 105 F.3d 696, 700 (D.C. Cir. 1997) (describing identical provision in the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA"), 12 U.S.C. § 1821(c)(2)(C)).

By commanding the Enterprises to produce documents and respond to interrogatories, the California Attorney General would clearly be seeking to exercise "direction or supervision" over the Enterprises. As noted above, during conservatorship the Agency as Conservator succeeds to "all rights, titles, powers, and privileges of [Fannie Mae]," 12 U.S.C. § 4617(a)(2)(A), and has authority to "take over the assets of and operate the regulated entity," 12 U.S.C. § 4617(a)(2)(B). Therefore, "direction or supervision" by a state agency over the Enterprises is one and the same as "direction or supervision" over FHFA as Conservator.

Recent Supreme Court authority establishes that executive-branch investigatory activities including administrative requests for information and non-judicial subpoenas fall squarely within the scope of the state supervision that Section 4617(a)(7) precludes. Specifically, in *Cuomo v. Clearing House Ass'n L.L.C.*, 129 S.Ct. 2710 (2009), the Court considered whether 12 U.S.C. § 484(a), which provides that "[n]o national bank shall be subject to any visitorial powers except as authorized by Federal law," precluded the New York Attorney General from compelling national banks to provide information outside of any judicial process. The Court held that it did, affirming an injunction to the extent it precluded "the threatened issuance of executive subpoenas by the Attorney General of New York." *Id.* at 2722. The Court explained that "'[v]isitorial powers' . . . include any form of administrative oversight that allows a sovereign to inspect books and records on demand." *Id.* at 2721.

Similarly, in *Wells Fargo Bank, N.A. v. Boutris*, 419 F.3d 949 (9th Cir. 2005), the Ninth Circuit held that the Commissioner of the California Department of Corporations was prohibited from conducting audits of the residential mortgages of national banks, because "the 'visitorial' power" that is "the exclusive province of the federal government" includes the power to "inspect[] . . . a bank's books and records." *Id.* at 963. Where a statute like Section 484 provides for exclusive federal supervision or visitation of a class of entities, *Cuomo* and *Wells Fargo* permit states to bring judicial actions to enforce their laws against such entities (to the extent such laws are not otherwise preempted) but preclude states from using administrative investigatory techniques against such entities.

Even though the Enterprises are not national banks governed directly by 12 U.S.C. § 484, *Cuomo* controls here because 12 U.S.C. § 4617(a) precludes the use of administrative investigatory techniques against the Enterprises to at least the same extent that Section 484(a) precludes their use against national banks. While the statutes speak in different terms: Section 484(a) expressly precludes states from exercising "visitorial powers," whereas Section 4617(a) expressly precludes states from exercising "supervision." The *Cuomo* opinion makes clear that compulsory administrative investigatory mechanisms constitute an exercise of both "visitorial power" and "supervisory power." *Cuomo*, 129 S.Ct. at 2721. Specifically, the Court explained that "'Visitorial powers' in the National Bank Act *refers to a sovereign's supervisory powers* over corporations. They include any form of administrative oversight that allows a sovereign to inspect books and records on demand." *Id.* (emphasis added). While the *Cuomo* opinion does not indicate the extent to which supervisory powers encompass *more than* visitorial powers, it leaves no question that supervisory powers include *at least* all visitorial powers, and that both supervisory powers and visitorial powers include "any form of administrative oversight that allows a sovereign to inspect books and records on demand." *Id.* Accordingly, 12 U.S.C. § 4617(a)(7) expressly preempts the California Attorney General from compelling responses to investigative interrogatories to the Enterprises.

* * * * *

For the foregoing reasons, FHFA will not and has directed the Enterprises not to respond substantively to the interrogatories and respectfully requests that the Office of the Attorney General withdraw its investigative interrogatories. Please do not hesitate to call me if you wish to discuss this matter further.

Sincerely,

Asim Varma

Asim Varma